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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 LARRY HEGGEM,

10 Plaintiff,

11 vs.

12 SNOHOMISH COUNTY CORRECTIONS,
13 et al.,

14 Defendants.

Case No. C11-1333 RSM

ORDER DENYING MOTION TO
APPOINT COUNSEL

15 This matter comes before the Court on the latest Motion to Appoint Counsel by Plaintiff
16 Larry Heggem. Dkt. #531. Plaintiff explains his request by stating only that he is in poor health,
17 had counsel before, and that he “should be reappointed counsel again or to save time, settlement
18 should take place.” *Id.* Defendants oppose. Dkt. #532.

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20 The Court has previously denied Mr. Heggem’s request for re-appointment of counsel.
21 See Dkt. #413. That Order stated:

22 As Plaintiff is well aware, a litigant generally does not have a right
23 to counsel in a civil case. *See Palmer v. Valdez*, 560 F.3d 965, 970
24 (9th Cir. 1990); *see also Gardner v. Madden*, 352 F.2d 792, 793
25 (9th Cir. 1965) (“[T]he appointment of counsel in a civil case is...a
26 privilege and not a right.”). The Court may, however, exercise its
discretion to appoint counsel for indigent defendants under the
statute governing proceedings *in forma pauperis*, 28 U.S.C. §
1915(e)(1), but even then only under exceptional circumstances.

1 *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). A
2 finding of exceptional circumstances requires the indigent litigant
3 to show both a likelihood of success on the merits and that he is
4 unable to articulate his claims in light of the complexity of the
legal issues involved. *Id.*; see also *See Ivey v. Board of Regents of*
the University of Alaska, 673 F.2d 266, 269 (9th Cir. 1982).

5 With these factors in mind, the Court determines that
6 Plaintiff's request for appointment of counsel at this juncture must
7 be denied. While the Court previously appointed counsel for
8 Plaintiff in this case (*see* Dkt. # 250), it does so at a substantially
9 earlier stage in the litigation, with discovery yet to be conducted
10 and an additional defendant involved. With extensive discovery
11 now complete and the case narrowed through the Court's grant of
12 qualified immunity to a former Defendant, the Court does not find
13 the case so complex so as to preclude Plaintiff from adequately
14 proceeding on his own behalf at trial. In addition to being able to
articulate his claims in light of their complexity, Plaintiff has
proved himself intimately familiar with the details of his case and
indeed desiring of controlling both the goals and the strategies of
this litigation. Plaintiff's instant Motion presents no new grounds
for this Court to find that counsel must again be procured to
represent him.

15 More fundamentally, appointment of counsel in a civil case
16 such as this is a privilege and not a right, and the decision whether
17 to appoint remains committed to the sound discretion of the trial
18 court. In the judgment of this Court, Plaintiff has extended this
19 privilege to its limits, through his manifold motions to proceed on
20 his own behalf and retractions of the same, his contravention of his
21 written commitment to the Court to defer to his former counsel's
litigation strategies, and finally his decision to file suit against his
former counsel, necessitating their withdrawal. Bearing in mind
that pro bono counsel are a limited resource, the Court does not
find Plaintiff's case so exceptional as to require renewed
appointment under these circumstances.

22 *Id.*

23 The Court finds that Plaintiff's instant Motion presents insufficient new grounds for this
24 Court to appoint counsel. The Court relies on its previous analysis above. Accordingly, the
25 Court hereby ORDERS that Plaintiff's Motion to Appoint Counsel, Dkt. # 531, is DENIED.
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1 Dated this 27 Day of March 2018.

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4 RICARDO S. MARTINEZ
5 CHIEF UNITED STATES DISTRICT JUDGE
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